

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION

UNITED STATES OF AMERICA	.	Criminal No. 1:19cr334-3
	.	
vs.	.	Alexandria, Virginia
	.	March 30, 2021
JINGYUAN LI,	.	9:51 a.m.
	.	
Defendant.	.	
	.	
.	

TRANSCRIPT OF PLEA HEARING
BEFORE THE HONORABLE LEONIE M. BRINKEMA
UNITED STATES DISTRICT JUDGE

APPEARANCES:

FOR THE GOVERNMENT:	DAVID A. PETERS, AUSA MARY K. DALY, SAUSA United States Attorney's Office 2100 Jamieson Avenue Alexandria, VA 22314
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FOR DEFENDANT JINGYUAN LI:	ELON BERK, ESQ. (by telephone) Gurovich, Berk & Associates 15250 Ventura Boulevard Suite 1220 Los Angeles, CA 91403 and DOUGLAS A. RAMSEUR, ESQ. The Ram Law Firm 530 E. Main Street, Suite 608 Richmond, VA 23219
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ALSO PRESENT:	SA DANIEL HURLEY
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MANDARIN INTERPRETER:	XIANGPING WANG
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OFFICIAL COURT REPORTER:	ANNELIESE J. THOMSON, RDR, CRR U.S. District Court, Third Floor 401 Courthouse Square Alexandria, VA 22314 (703)299-8595
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(Pages 1 - 15)

COMPUTERIZED TRANSCRIPTION OF STENOGRAPHIC NOTES

1 P R O C E E D I N G S

2 THE CLERK: Criminal Case 19-334-3, United States of
3 America v. Jingyuan Li. Would counsel please note their
4 appearances for the record.

5 MR. PETERS: Good morning, Your Honor. David Peters
6 for the United States. I believe we also have Mr. Elon Berk,
7 who will be joining us by phone on behalf of Mr. Li, in
8 addition to his local counsel.

9 THE COURT: All right.

10 MR. BERK: That's correct, Your Honor. Elon Berk on
11 behalf of Mr. Li, appearing via telephone.

12 THE COURT: All right.

13 MR. RAMSEUR: Douglas Ramseur here, local counsel.

14 THE COURT: All right. We're waiting on the
15 defendant.

16 (Defendant present.)

17 THE COURT: He's here now, all right.

18 We'll have our interpreter affirmed.

19 THE INTERPRETER: Your Honor, Renee Wang, certified
20 Mandarin interpreter.

21 THE COURT: All right.

22 RENEE WANG, MANDARIN INTERPRETER, AFFIRMED

23 THE COURT: All right. Are we all set up with the
24 hearing, with the equipment? Can the defendant hear the
25 interpreter?

1 THE INTERPRETER: Your Honor, may the interpreter
2 have a minute?

3 THE COURT: Yes.

4 THE INTERPRETER: Thanks, Your Honor.

5 THE COURT: All right. And it will probably be
6 easier for the interpreter, it's up to you, to take off your
7 mask. You've got the plexiglass.

8 THE INTERPRETER: Thank you.

9 THE COURT: I think it might make it a little easier
10 for the defendant to hear you.

11 Is that better?

12 THE INTERPRETER: Yes.

13 THE COURT: Okay. All right. All right, this matter
14 comes on for a post-indictment plea, correct?

15 MR. PETERS: That's correct, Your Honor.

16 THE COURT: All right. Do we have the original
17 paperwork?

18 MR. PETERS: Yes, Your Honor. I've left it here at
19 the lectern, but with the assistance of the court security
20 officer, I'll pass it up to the bench.

21 THE COURT: All right. Now, are the only people in
22 the courtroom related to this case, are they government people?

23 MR. PETERS: Yes, Your Honor. I have Special Agent
24 Dan Hurley and a colleague from Main Justice, Ms. Mary Daly,
25 and they are parties to the prosecution.

1 THE COURT: All right. And the only person who's on
2 the phone line is Mr. Berk; is that correct?

3 THE CLERK: Yes.

4 THE COURT: All right. So that we don't have to go
5 and seal the courtroom when we go into the sensitive session.

6 MR. PETERS: Yes, Your Honor.

7 THE COURT: All right, that's fine.

8 All right, Mr. Li, come up to the lectern.

9 JINGYUAN LI, DEFENDANT, AFFIRMED (through interpreter)

10 THE COURT: All right, Mr. Li, you have just taken a
11 promise to tell the truth in answering all of the Court's
12 questions. That means that if you should lie in answering any
13 question, the government could prosecute you for a new and
14 separate crime called perjury.

15 Do you understand that?

16 THE DEFENDANT: Yes.

17 THE COURT: For the record, what is your full name?

18 THE DEFENDANT: Jingyuan Li.

19 THE COURT: How old are you?

20 THE DEFENDANT: Forty-eight years old.

21 THE COURT: How many years of schooling have you
22 completed?

23 THE DEFENDANT: Seven years.

24 THE COURT: Was that in -- any of that in the United
25 States?

1 THE DEFENDANT: No.

2 THE COURT: Are you able to read, write, understand,
3 or speak any English?

4 THE DEFENDANT: No.

5 THE COURT: Are you a United States citizen?

6 THE DEFENDANT: No.

7 THE COURT: Do you understand that if you are found
8 guilty of a felony offense, that will make it extremely
9 difficult for you to ever get legal status in the United
10 States, and you will become deportable from the United States?
11 Do you understand that?

12 THE DEFENDANT: I understand.

13 THE COURT: Mr. Berk, did you discuss immigration
14 consequences with your client when you went over this plea with
15 him?

16 MR. BERK: Yes, Your Honor. We went over the
17 immigration consequences, and the defendant is aware of it.

18 THE COURT: Are you presently under the care of a
19 doctor for any physical or mental condition?

20 THE DEFENDANT: I'm not.

21 THE COURT: You're pointing to your heart area. Do
22 you have any medical problems for which you are currently being
23 treated at the jail?

24 THE INTERPRETER: Your Honor, may the interpreter ask
25 for a repetition?

1 THE COURT: Wait. Take off your mask. It will make
2 it easier to hear you.

3 THE DEFENDANT: I was infected with COVID-19, so it
4 makes me feel difficult to breathe.

5 THE COURT: When were you infected?

6 THE DEFENDANT: Three months ago.

7 THE COURT: All right. Has your difficulty in
8 breathing made it difficult for you to communicate with your
9 lawyers?

10 THE DEFENDANT: No.

11 THE COURT: All right. Within the last 24 hours,
12 have you taken any kind of medicine for any condition
13 whatsoever?

14 THE DEFENDANT: No.

15 THE COURT: Are you at this time under the influence
16 of any alcohol or illegal drugs?

17 THE DEFENDANT: No.

18 THE COURT: All right. We have in court this morning
19 a written plea agreement which is 12 pages long, and then we
20 have an under seal addendum to that agreement which is not
21 numbered, but on the last page of each of these documents, I
22 see what appears to be your signature and the date of March 18,
23 which was about a week ago.

24 Did you sign the plea agreement and the addendum to
25 the plea agreement?

1 THE DEFENDANT: My attorney told me to sign them.

2 THE COURT: All right. Now, Mr. Berk, how did you go
3 over these two plea agreements with your client?

4 MR. BERK: Your Honor, we -- Your Honor, we had an
5 interpreter read the plea agreement. I explained -- in
6 addition to the interpreter just reading, I explained every
7 paragraph to Mr. Li. He asked some questions about it, and at
8 the end of the reading of the plea agreement and explanation of
9 any, any issues that might have arose, he agreed to sign it.
10 Again, everything was done with an interpreter.

11 THE COURT: Mr. Li, you heard your lawyer explain
12 that he had these two agreements translated for you. Is that
13 correct?

14 THE DEFENDANT: He read them to the interpreter, and
15 then the interpreter read them to me.

16 THE COURT: All right. And did you ask your lawyer
17 questions about the plea agreements?

18 THE INTERPRETER: May the interpreter ask for a
19 repetition?

20 THE DEFENDANT: Well, the specifics was not very
21 clear.

22 THE COURT: All right. I'm going to go over the plea
23 agreements with you today, and if you don't understand anything
24 I'm discussing with you, you need to tell me. Do you
25 understand that?

1 THE INTERPRETER: Your Honor, may the interpreter
2 have a copy? The interpreter has a copy, but she's not sure
3 whether this is the same one that Your Honor is going to use.

4 THE COURT: I don't want to do it that way. We're
5 not going to read the whole plea agreement.

6 All right. Under your agreement, you have agreed to
7 plead guilty to Count 3 of the indictment. Do you understand
8 that?

9 THE DEFENDANT: Yes.

10 THE COURT: And Count 3 charges you with being a
11 member of a conspiracy to commit money laundering. Do you
12 understand that?

13 THE DEFENDANT: I understand.

14 THE COURT: All right. Now, a conspiracy is an
15 agreement between at least two people to do something the law
16 forbids. Do you understand that?

17 THE INTERPRETER: May the interpreter ask for a
18 repetition?

19 THE COURT: All right. I think it would really help
20 if you take --

21 THE DEFENDANT: You know, I did not partner up with
22 that person. I partnered up with another person.

23 THE INTERPRETER: When the interpreter asked which
24 person the first one, when the interpreter asked for a
25 repetition, the witness said, "I do not have that person's

1 name."

2 THE COURT: Mr. Peters, are you able to help the
3 defendant in understanding what other person we are talking
4 about here?

5 MR. PETERS: I believe the defendant is aware of all
6 of the relevant people and is cognizant of who he partnered
7 with and understands the contours of a conspiracy as it has
8 been explained to him by his attorney. So the short answer to
9 your question, Your Honor, is I don't know -- I understand that
10 there appears to be a bit of confusion on the part of the
11 defendant right now. I think it may just be some confusion
12 with this process and not necessarily what he would be pleading
13 guilty to.

14 THE COURT: Well, I'm not sure that answered his
15 question. Let me just continue and see where we're at in this.

16 MR. PETERS: Yes, Your Honor.

17 THE COURT: All right. The offense of conspiracy to
18 commit money laundering exposes you to up to 20 years of
19 imprisonment. Do you understand that?

20 THE DEFENDANT: I understand.

21 THE COURT: All right. It also exposes you to having
22 to pay a fine of up to \$500,000, or twice the value of the
23 funds involved in the offense, whichever is the larger amount.
24 Do you understand that?

25 Do you understand that?

1 THE DEFENDANT: I understand it now.

2 THE COURT: Did you not understand that when you
3 signed the plea agreement?

4 THE INTERPRETER: May the interpreter ask for a
5 clarification?

6 THE COURT: All right.

7 THE DEFENDANT: He said he was going to help me to
8 appear in court and to try to get the sentence down to 36
9 months.

10 THE COURT: All right. I'm very concerned, I don't
11 think this is just a language issue, that this defendant, this
12 defendant does not appear to truly understand what's in this
13 plea agreement.

14 Mr. Berk, how much time have you spent going over
15 this plea agreement with -- these plea agreements with the
16 defendant?

17 MR. BERK: Your Honor, we went over parts of it --
18 the factual basis we went over, I think that took about 45
19 minutes on the, on the call with the jail, with the interpreter
20 on, and then we went over all three documents again, I believe
21 it was about 45 minutes when we met with the U.S. Attorney's
22 Office, again with an interpreter.

23 THE COURT: I'm not convinced that two 45-minute
24 sessions, given the language barrier and the different -- and
25 the background of this defendant, I mean, I'm watching his body

1 language. He does not seem to understand the questions I'm
2 asking, and he does not seem to understand what's involved in
3 this plea agreement, and I'm not comfortable taking this plea
4 today without better preparation of the defendant.

5 MR. BERK: And, Your Honor, I do --

6 THE COURT: Wait, wait, let the interpreter finish.

7 So, Mr. Peters, you know the normal colloquy that I
8 have with defendants. You need to give that, a copy of one of
9 my transcripts if necessary, to defense counsel. They need to
10 go over that colloquy with the defendant. Forty-five minutes
11 is not enough time, frankly, when someone cannot read the
12 document.

13 It also might not be a bad idea to have the documents
14 translated into, is it Cantonese?

15 THE INTERPRETER: Mandarin, Your Honor.

16 THE COURT: Mandarin.

17 Do you speak -- do you read Mandarin, Mr. Li?

18 THE INTERPRETER: Your Honor, may the interpreter
19 interpret what you just said first?

20 May the interpreter ask for a repetition?

21 THE DEFENDANT: I would like to request to change my
22 attorney into a government-appointed attorney because my
23 attorney asked for attorney's fee, and I only had \$50,000, so I
24 have no more money to pay him.

25 THE COURT: Well, Mr. Berk, I'm not satisfied you and

1 your local counsel have spent what I think is sufficient time
2 in preparing the defendant for his plea, and you're the lawyers
3 on the record. You're going to have to continue representing
4 him whether he's paying you or not. If he paid you \$50,000,
5 that's plenty of money for a plea. But he is not -- he's not
6 adequately prepared.

7 Now, let me ask this: Mr. Li, can you read Mandarin?

8 THE DEFENDANT: Yes.

9 THE COURT: May I ask the interpreter, how long would
10 it take for you or an experienced interpreter to translate
11 these documents into Mandarin?

12 THE INTERPRETER: The interpreter would like to ask,
13 Your Honor, when you say "translate," were you referring to
14 written?

15 THE COURT: Written.

16 THE INTERPRETER: Produce a written document?

17 THE COURT: Yeah.

18 THE INTERPRETER: How many pages are they?

19 THE COURT: The plea agreement is --

20 MR. BERK: Your Honor, if I may, it's 25 pages total,
21 all three documents.

22 THE COURT: All three documents? That's including
23 the statement of facts?

24 All right, 25 pages.

25 MR. BERK: Correct.

1 THE INTERPRETER: So while the interpreter does not
2 know how many word count total, but it would be at least a
3 couple hours.

4 THE COURT: All right.

5 THE INTERPRETER: If not a couple days.

6 THE COURT: All right.

7 THE INTERPRETER: It depends on the complexity.

8 THE COURT: And I recognize certain concepts will be
9 very difficult to translate, but I think in this case, it would
10 enable the defendant to have a better understanding of some of
11 this and assure the Court that he is entering his plea in a
12 knowing and voluntary fashion. I'm not satisfied right now on
13 this record that I could make that finding.

14 MR. BERK: And, Your Honor, if I may, I feel that,
15 you know, when I'm face to face with my client, he has a
16 different level of comfort, and I just feel maybe me being
17 physically there would actually make the difference in going
18 forward with the plea as well.

19 I, I do feel that Mr. Li had a very good
20 understanding of the plea agreement, addendum, and the factual
21 basis, as it was read to him several times by two different
22 interpreters on two occasions, but I do understand the Court's
23 concern, and maybe a, a written version in his native language
24 would move this further along, if possible.

25 THE COURT: Well, you're retained counsel; is that

1 correct?

2 MR. BERK: I am.

3 THE COURT: All right.

4 MR. BERK: Yeah, I'm not going anywhere.

5 THE COURT: All right. Well, that's fine. I'm going
6 to order that you arrange for there to be a full translation of
7 the plea papers, that is, the two plea agreements and the
8 written statement of facts; and probably you ought to also get
9 Count 3 of the indictment translated into Mandarin so this
10 defendant can read it for himself and go over it; and if you
11 feel, Mr. Berk, that you need to be here in person, I think
12 in-person proceedings are always better, then you must make
13 those arrangements; but I'm going to cancel the plea at this
14 point. You can reschedule it at any time when the defendant is
15 prepared.

16 So, Mr. Li, I want to make sure you understand.

17 THE DEFENDANT: I understand.

18 THE COURT: All right.

19 THE DEFENDANT: If there is something in writing on a
20 document, that would be the best.

21 THE COURT: Because the Court has to be sure that you
22 fully understand what you are doing by pleading guilty, and I
23 can't tell that yet.

24 THE DEFENDANT: Okay. I understand.

25 THE COURT: All right. Then we'll recess court.

1 Mr. Peters, let me know if and when you want this rescheduled,
2 all right?

3 MR. PETERS: Yes, Your Honor. With the Court's
4 permission, may I have the original pleadings back for the file
5 since they're not being entered today?

6 THE COURT: Yeah, hold on. Since they have
7 file-stamped on the top --

8 MR. PETERS: Yes, Your Honor.

9 THE COURT: -- you need to do something with them.

10 All right. If there's nothing further then, we'll
11 recess court until 10:30; and in the interim, I'll ask that we,
12 since we'll have another interpreter in the box, that we make
13 sure we've done some cleaning of the area, all right?

14 THE COURT SECURITY OFFICER: Yes, Your Honor.

15 THE COURT: We'll reconvene at 10:30.

16 MR. PETERS: Thank you, Your Honor.

17 (Which were all the proceedings
18 had at this time.)

19

20 CERTIFICATE OF THE REPORTER

21 I certify that the foregoing is a correct transcript of
22 the record of proceedings in the above-entitled matter.

23

24

25

/s/

Anneliese J. Thomson